



DEPARTMENT OF STATE

Washington, D.C. 20520

JAN 28 1970

The Honorable  
Ralph Yarborough, Chairman  
Committee on Labor and Public  
Welfare  
United States Senate

Dear Mr. Chairman:

Further reference is made to your request of February 12, 1969 for a report on S. 939, a bill "To amend the Higher Education Act of 1965 in order to provide for a United States Foreign Service Corps," the stated objectives of which are "To assure that there is adequate opportunity for the young men and women of the United States to enter this vast field with the best possible training of their natural abilities, and to advance the professional education and training of the officers and employees of the Government currently engaged in the field of foreign relations."

The basic purpose of S. 939 is to provide full scholarships to enable young men and women of the United States and officers and employees of the Government to obtain undergraduate and graduate degrees in various fields related to foreign relations. The Department has recently completed a careful review of this bill and believes that no need exists for a Government program along the lines contemplated by S. 939. Sufficient authority already exists for training current Federal employees and families of Federal employees who are assigned overseas. Also, our experience indicates that there is a sufficient number of qualified students interested in Foreign Service careers without special Government financial incentives.

Some of the provisions of the bill relating to the number of students and administration of the corps in relation to present

programs and personnel systems, moreover, raise a number of questions or conflicts with provisions of existing legislation.

The existence of such a program as that proposed in the bill could conceivably impose a real obstacle to "open" competition in the final selection of class 7 and 8 Foreign Service officers. While the application to take the examinations would be open to any qualified candidate who might apply, there is some reason to believe that student corps members who have spent four to six years working toward a career in the Foreign Service would be in a preferred position in taking the examination for Foreign Service officer. Although the program would be an adjunct to the present method of recruiting Foreign Service personnel, its potential magnitude leads to the question of whether, over a period of time, the present open competitive method of examining and selecting Foreign Service officer candidates would be largely supplanted.

The proposal in the bill to continue the Foreign Service Institute, but to transfer its functions, powers, and duties from the Secretary of State to a board is of particular concern to the Department. The Institute, as originally conceived and as established under the provisions of section 701 of the Foreign Service Act of 1946, as amended, was to furnish training and instruction to officers and employees of the Department and other agencies of the Government, and members of their families, for whom training and instruction in the field of foreign relations is necessary. At present the Institute furnishes training and instruction to approximately 8,000 officers and employees and members of family per year from over 30 agencies other than the Department. It would appear, therefore, that the purposes of the bill could be accomplished through Institute facilities and programs under existing legislation.

In summary, in view of the fact that there is no need for the program that S. 939 would create, the problems of administration of such a program, its effect on the Foreign Service personnel system, and the conflicts with existing legislation are such that the Department would not favor enactment of this legislation in its present form.

Enclosed are the more detailed and technical comments on the bill, by section.

The Bureau of the Budget advises that from the standpoint of the Administration's program, there is no objection to the submission of the report.

Sincerely yours,

H. G. Torbert, Jr.  
Acting Assistant Secretary  
for Congressional Relations

Enclosure:  
Additional comments:

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<b>OFFICIAL ROUTING SLIP</b>					
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1	7D-35 HQ's			<i>[Signature]</i>	
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ACTION		DIRECT REPLY		PREPARE REPLY	
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<b>Remarks:</b>  <p style="text-align: center;">Per our telcon this morning, attached is the State Department's report on S. 939.</p>					
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FROM: NAME, ADDRESS AND PHONE NO.				DATE	
Director of Personnel, 5E-56 HQ s				1970	
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COMMENTS ON S.939

(To amend the Higher Education Act of 1965 in order to provide for a United States Foreign Service Corps)

Section 1201 -- Establishment of Corps

The bill provides for the establishment of a United States Foreign Service Corps, which would consist of both students and employees of the Government. Since the Corps would be composed of persons who are already employees of the Government and those who are not, the title is confusing with the common usage of the terms "United States Foreign Service", "Foreign Service of the United States", "Foreign Service Officer Corps", etc.

Section 1202 -- Definitions

Within the limitation of the field of foreign relations, the proposed legislation appears to be Government-wide in scope; however, in the definitions "Government" means the Government of the United States. This apparently would exclude the Government of the District of Columbia. This exclusion may have been deliberate because of the limitation of the bill in its application to employees "currently engaged in the field of foreign relations". The definition in 1202(d) of "department or agency" would also exclude the Government of the District of Columbia which suggests that perhaps it was so intended.

In section 1202(f) "dependent" when used in relation to a student member of the Corps is defined as an individual who qualifies under section 152 of the Internal Revenue Code. This is for purposes of paying a subsistence, and would include persons other than spouse or children; e.g., a parent of either student member or spouse who is claimed as a dependent for income tax purposes.

-2-

Section 1203 -- Board of Trustees

The management and supervision of the Corps is vested in a Board of Trustees, composed of the Secretary of State, two Senators, two Members of the House of Representatives and four educators. The organizational location of the Board is not stated and it is therefore unclear as to whom it reports, nor is there mention of a chairman of the Board. With all members of the Board serving without pay, including the four educators to be appointed by the President, this suggests a nominal amount of time to be devoted to the business of the Board by its members; consequently, the logical conclusion is that a strong administrative/professional staff would be necessary. See, however, section 1212 which envisions the appointment of "not more than five professional staff members".

Section 1204 -- Corps Programs

This section places no limitation on the period of time or the number of degrees that may be involved in the program. The last paragraph of subsection 1204(a) relating to orientation and language training for members of families of persons (both student members and employee members) as well as to families of employees who are not members of the Corps, but have duties or responsibilities in the field of foreign relations, seems to have been lifted partially from section 701 of the Foreign Service Act. Since the term "members of families" is not defined and perhaps was not intended to be identical with "dependents" as used in section 1202, it may have been anticipated that "members of families" would be defined by regulation. This is done in section 824.2, Volume 3 of the Foreign Affairs Manual (3 FAM 824.2) as being (adult members--18 years and over--wives, husbands, children). Since the Foreign Service Institute is proposed to be transferred to the jurisdiction of the Board, and since Title VII of the Foreign Service Act contains similar language regarding the training of members of families, the inclusion of such language in the subject bill would seem necessary only with relation to members of families of student members of the Corps.

Section 1205 -- Nomination and Admission of Students Into Corps

a. Number

The number of students authorized to be educated under the program appears to be unrelated to a prior determination of needs of Federal agencies, and to the attendant variables of Federal programs. The requirement for consultation by the Board with agencies regarding their needs (sec. 1209(c)), comes immediately prior to "assignment" of graduates to agencies. This kind of consultation and appropriate procedures for selection seems more appropriate as the basis for determining the numbers to be trained, reference to which is made in section 1204(c).

b. Qualification for Appointment

1. Section 1205(a) provides that examinations for admission of students to the Corps shall test "... his aptitude for service in the field of foreign relations." Section 1205(e) states that "Except as provided in this section, no competitive or other similar examination shall be required for admission of any person as a member of the Corps under this section". Since membership in the Corps carries over into employment, would the language of section 1205(e) prohibit the use of an oral examination as part of the selection and appointment process? If so, this provision is in conflict with the requirement for oral examination in section 516 of the Foreign Service Act.

Further, the provision of section 1205(a) re examining for aptitude cannot serve the same purpose as an oral examination in connection with selection for appointment. First, the validity of any examination that purports to measure aptitude for service in the field of foreign relations would be open to question.

-4-

Second, except as a broad screening device for selecting students, such an examination would be given at the wrong time. Entering students would be young, immature, changeable and uncertain about many things. A much better evaluation could probably be obtained after graduation, and preferably through oral examination.

## 2. Citizenship

Section 1205(b) requires only that Corps students be citizens. In the absence of further citizenship requirements for appointment in the Government, a conflict occurs with section 515 of the Foreign Service Act, which requires that candidates for appointment as Foreign Service officers be citizens for 10 years. The same type of conflict would occur with section 522 of the Foreign Service Act which requires that persons who are being appointed as Foreign Service Reserve officers be citizens for 5 years.

## 3. Appointment Without Examination

Section 1209(b) would require that the Secretary of State appoint, as a Foreign Service officer, without the examination provided for in section 516 or 517 of the Foreign Service Act, a member of the Corps (this is not specified as a student member) who has completed a graduate degree and a year of specialized study in a foreign country or area. This kind of directive is also in conflict with section 515 of the Foreign Service Act with regard to citizenship requirements, and since it requires that the Secretary of State appoint certain Foreign Service officers, conflicts with section 511 of the Foreign Service Act which requires that the President appoint Foreign Service officers, by and with the advice and consent of the Senate.



-5-

Section 1206 -- Expenses and Subsistence for Student Members

It is noted that "student members shall be granted an additional allowance of \$30 per training month for each dependent not a spouse or child of such student member". Since "dependent" is defined according to the Internal Revenue Code this could conceivably include several parents, in-laws, etc.

Section 1207 -- Government Employees

As a general comment, the authority contained in this section duplicates in part that contained in 5 U.S.C. 4101-4118 (formerly the Government Employees Training Act), and section 573 of the Foreign Service Act.

This section authorizes Government departments to pay to Government employees who become members of the Corps, all or any part of their pay, with the exception of certain premium pay--overtime, holiday, and night differential--but Sunday pay is not mentioned. This is apparently an oversight.

Section 1207(c) provides for the continuation of service of Government employees for various purposes during periods of training as a member of the Corps, and refers specifically to that section of Title 5, U.S. Code, relating to Civil Service retirement, but does not mention the Foreign Service retirement system, or any other civilian contributory system. This section is also unclear as to the retirement contribution in case an employee is on less than full pay.

Section 1207(d) provides that on resumption of regular duties, "the department or agency shall restore such officer's or employee's sick leave account, by credit or charge" to its status at the time he commenced education, training," etc. The specific mention of sick leave raises the question of whether sick leave is available during such period of training, and raises the same question with respect to annual leave and its disposition upon return to regular duties. Similar questions arise on military leave.

-6-

The travel and transportation expenses of a Foreign Service employee, who might travel to place of training, under this act, is authorized by section 5724 of Title 5 of the U.S. Code. This is a conflict, or superimposition upon the authority under which Foreign Service employees travel, which is a part of Title 22 of the U.S. Code.

It is noted that section 1207 provides that section 1206 (which refers to subsistence pay for student members) shall not apply to any Government officers or employees admitted to the Corps under this section. The effect therefore seems to be that student members are allowed \$30 per training month for dependents, including each dependent not a spouse or child, whereas the Government employee receives no subsistence for dependents, thus placing him in a less favorable position, and in addition his agency could place him in a partial pay status during such training period.

#### Section 1208 -- Agreement

The agreement arrangement is similar to that required by 5 U.S.C. 4101-4118 (formerly the Government Employees Training Act), and to that required by Foreign Affairs Manual Circular 485 (now codified into 3 FAM 817) for personnel who receive training under the authority of the Foreign Service Act, the latter being an administrative requirement applicable to Foreign Service employees of the Department and the United States Information Agency.

#### Section 1209 -- Assignment

See comments on section 1205.

#### Section 1210 -- Compulsory Service in the United States

The requirement of compulsory service in the United States for a minimum period of "one year during every five" (for members of the Corps after they become Government employees)

-7-

creates a situation--at least in the Department of State--whereby Foreign Service employees who are also Corps members would require special handling with respect to tours of duty abroad. Section 572 of the Foreign Service Act requires that Foreign Service officers spend 3 years out of the first 15 in the United States. At present Foreign Service officers can expect to spend about two-thirds of their time abroad and about one-third in the United States during the course of a normal career. Administration of the Service requires flexibility in determining the length and timing of tours of duty for individual officers.

If a member of the Corps should be appointed as a Reserve or Staff in the Foreign Service, again they would be in a special category, since there are at present no statutory requirements for Reserves and Staff with respect to time to be spent in the United States.

#### Section 1211 -- Transfer of the Foreign Service Institute

Section 1211 would transfer all functions ... of FSI to the Board. The supervision of the Institute seems to be removed from the Secretary of State and transferred to the Board, which is composed of persons who have other full-time occupations.

If the Institute were transferred to an organization outside the Department, some types of training programs now administered by or through the Institute would need to be continued by the Department for its employees. If all functions, funds and personnel of the Institute were transferred the Secretary of State would be deprived of the capability of continuing such training programs.

#### Section 1212 -- Staff of Board

The Board is authorized to appoint and fix the compensation of not more than five professional staff members, and such clerical staff members as may be necessary, but such appointment

-8-

authority is circumscribed by the application of the rules governing appointments in the competitive service and the laws pertaining to classification and the General Schedule pay rates. This would appear to limit such compensation to the GS-18 grade level and to require that such appointments be made of persons eligible for appointment to competitive positions.